



U.S. Department of Justice

United States Attorney
Eastern District of New York

SLR:SJK
2003V01974

One Pierrepont Plaza

Brooklyn, New York 11201

Mailing Address: 147 Pierrepont Street
Brooklyn, New York 11201

COURTESY COPY

January 14, 2005

FILED ELECTRONICALLY

Honorable Nina Gershon
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RECEIVED
in Chambers of
U.S.D.J. Gershon

JAN 16 2005

RE: Przhebel'skaya v. Ashcroft,
Docket No. CV-03-3303(NG)

Dear Judge Gershon:

The government respectfully requests an extension of time of two weeks, to January 28, 2005, to file a response to Plaintiffs' application for attorney fees. Counsel for the parties have reached a settlement agreement regarding attorney fees, and they expect to file a stipulation and order for the Court's endorsement shortly. The government's response is currently due on January 14, 2005, counsel for Plaintiffs consents to this request, and this is the government's second request for an extension in this case.

Respectfully submitted,

ROSLYNN R. MAUSKOPF
United States Attorney

By: \s\ filed electronically
STEVEN KIM (SK6445)
Assistant U.S. Attorney
(718) 254-7036

cc: Harry Demell, Esq.
225 Broadway, Suite 1605
New York, New York 10007

So Ordered.
Nina Gershon
U.S.D.J.
1-18-05

HARRY A. DE MELL

ATTORNEY AT LAW
225 BROADWAY
SUITE 1605
NEW YORK, N.Y. 10007

TEL. (212) 732-2767 FAX. (212) 566-1033

January 26, 2005

Steven Kim
Assistant U.S. Attorney
Eastern District of New York
One Pierrepont Plaza, 14th Floor
Brooklyn, NY 11201

RE: Przhebelskaya v. Ashcroft,
Docket No. CV-03-3303

Dear Steven:

Attached you will find two signed copies of the stipulation and order regarding attorney's fees.

Sincerely,

Harry A. DeMell

HAD/ac
Encl.

SLR:SJK
2003V01974

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - x

MARIANNA PRZHEBELSKAYA, VLADIMYR
PRZHEBELSKIY, and YEVGENIA
PRZHEBELSKAYA,

Plaintiffs,

- against -

JOHN ASHCROFT, Attorney General
of the United States, EDUARDO
AGUIRRE, JR., Commissioner of
the Bureau of Citizenship and
Immigration Services, and
EDWARD MCELROY, District
Director of the Bureau of
Citizenship and Immigration
Services,

Defendants.

- - - - - x

STIPULATION AND ORDER
REGARDING ATTORNEYS' FEES

Civil Action
No. 03-3303

(Gershon, J.)
(Matsumoto, M.J.)

IT IS HEREBY STIPULATED AND AGREED, by and between
counsel for parties in the above-captioned action, pursuant to the
Equal Access to Justice Act, 28 U.S.C. § 2412, that Plaintiffs are
awarded \$8,474.00 (Eight Thousand Four Hundred Seventy-Four

Przhebel'skaya v. Ashcroft, No. CV-03-3303
Stipulation Regarding Attorney Fees
Page - 2 -

Dollars and Zero Cents) in attorneys' fees, in full satisfaction of any claim for such fees.

Dated: New York, New York
January 16, 2005



HARRY A. DEMELL, ESQ.
Attorney for Plaintiffs
225 Broadway, Suite 1605
New York, New York 10007
(212) 732-2767

Dated: Brooklyn, New York
January __, 2005

ROSLYNN R. MAUSKOPF
United States Attorney
Eastern District of New York
Attorney for Defendants
One Pierrepont Plaza, 14th Floor
Brooklyn, New York 11201

By:

STEVEN KIM (SK6445)
Assistant U.S. Attorney
(718) 254-7036

SO ORDERED:

HONORABLE NINA GERSHON
United States District Judge

HARRY A. DE MELL

ATTORNEY AT LAW
225 BROADWAY
SUITE 1605
NEW YORK, N.Y. 10007

TEL. (212) 732-2767 FAX. (212) 566-1033

April 14, 2005

Assistant U.S. Attorney
Steven Kim
147 Pierrepont Plaza
Brooklyn, NY 11201

Re: Przhebelskaya V. Ashcroft,
Docket No. CV-03-3303 (NG)

Dear Mr. Kim:

I am still waiting the resolution of the equal access to justice fees on the above matter. Please let me know what the status is.

Sincerely,

Harry A. DeMell

HAD/ss

Encl.



United States Attorney
Eastern District of New York

SLR:SJK
2003V01974

One Pierrepont Plaza
Brooklyn, New York 11201

Mailing Address: 147 Pierrepont Street
Brooklyn, New York 11201

January 28, 2005

Honorable Nina Gershon
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RECEIVED
In Chambers of
U.S.D.J. Gershon

JAN 31 2005

RE: Przhebel'skaya v. Ashcroft,
Docket No. CV-03-3303 (NG)

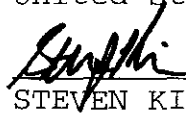
Dear Judge Gershon:

Enclosed for the Court's endorsement, please find the Stipulation and Order Regarding Attorneys' Fees. Thank you for your consideration of this matter.

Respectfully submitted,

ROSLYNN R. MAUSKOPF
United States Attorney

By:


STEVEN KIM (SK6445)
Assistant U.S. Attorney
(718) 254-7036

cc: Harry Demell, Esq.
225 Broadway, Suite 1605
New York, New York 10007

SLR:SJK
2003V01974

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - x

MARIANNA PRZHEBELSKAYA, VLADIMYR
PRZHEBELSKIY, and YEVGENIA
PRZHEBELSKAYA,

Plaintiffs,

- against -

JOHN ASHCROFT, Attorney General
of the United States, EDUARDO
AGUIRRE, JR., Commissioner of
the Bureau of Citizenship and
Immigration Services, and
EDWARD MCELROY, District
Director of the Bureau of
Citizenship and Immigration
Services,

Defendants.

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STIPULATION AND ORDER
REGARDING ATTORNEYS' FEES

Civil Action
No. 03-3303

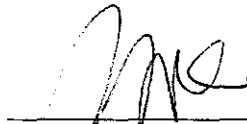
(Gershon, J.)
(Matsumoto, M.J.)

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awarded \$8,474.00 (Eight Thousand Four Hundred Seventy-Four

Przhebel'skaya v. Ashcroft, No. CV-03-3303
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Dollars and Zero Cents) in attorneys' fees, in full satisfaction of any claim for such fees.

Dated: New York, New York
January 16, 2005

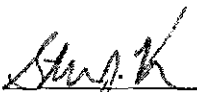


HARRY A. DEMELL, ESQ.
Attorney for Plaintiffs
225 Broadway, Suite 1605
New York, New York 10007
(212) 732-2767

Dated: Brooklyn, New York
January 28, 2005

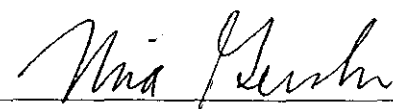
ROSLYNN R. MAUSKOPF
United States Attorney
Eastern District of New York
Attorney for Defendants
One Pierrepont Plaza, 14th Floor
Brooklyn, New York 11201

By:



STEVEN KIM (SK6445)
Assistant U.S. Attorney
(718) 254-7036

SO ORDERED:



HONORABLE NINA GERSHON
United States District Judge

1-31-05

HARRY A. DEMELL

**ATTORNEY AT LAW
225 BROADWAY
SUITE 1605
NEW YORK, N.Y. 10007**

**TEL. (212) 732-2767 FAX. (212) 566-1033
harry@demell-visas.com**

July 12, 2005

Honorable Nina Gershon
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Przhebelskaya v. Ashcroft,
Docket No. CV-03-3303 (NG)

Dear Judge Gershon:

Attached you will find a copy of the stipulation dated January 26, 2005 and a cover letter to you dated January 28, 2005 settling the equal access to justice fees in the above matter. We agreed to a sum approximately one third of our original request because the government promised to quickly expedite this matter and that there would be no uncertainty.

After six months, we request this matter be recalendered so that we can pursue our request for the full amount originally requested.

Sincerely,

Harry A. DeMell
HAD/ss
Encl.

cc: Steve Kim
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I, _____, hereby certify that a true and correct copy was served to
United States Attorney, One Pierrepont Plaza, and 14th Floor Brooklyn, New York
11201 by regular mail on _____, _____ 2005.

Sandy Santos



U.S. Department of Justice

United States Attorney
Eastern District of New York

COPY

SLR:SJK
2003V01974

One Pierrepont Plaza
Brooklyn, New York 11201

Mailing Address: 147 Pierrepont Street
Brooklyn, New York 11201

January 28, 2005

Honorable Nina Gershon
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: Przhebel'skaya v. Ashcroft,
Docket No. CV-03-3303 (NG)

Dear Judge Gershon:

Enclosed for the Court's endorsement, please find the Stipulation and Order Regarding Attorneys' Fees. Thank you for your consideration of this matter.

Respectfully submitted,

ROSLYNN R. MAUSKOPF
United States Attorney

By: 

STEVEN KIM (SK6445)
Assistant U.S. Attorney
(718) 254-7036

cc: Harry Demell, Esq.
225 Broadway, Suite 1605
New York, New York 10007

SLR:SJK
2003V01974

COPY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - x

MARIANNA PRZHEBELSKAYA, VLADIMYR
PRZHEBELSKIY, and YEVGENIA
PRZHEBELSKAYA,

Plaintiffs,

- against -

JOHN ASHCROFT, Attorney General
of the United States, EDUARDO
AGUIRRE, JR., Commissioner of
the Bureau of Citizenship and
Immigration Services, and
EDWARD MCELROY, District
Director of the Bureau of
Citizenship and Immigration
Services,

Defendants.

- - - - - x

STIPULATION AND ORDER
REGARDING ATTORNEYS' FEES

Civil Action
No. 03-3303

(Gershon, J.)
(Matsumoto, M.J.)

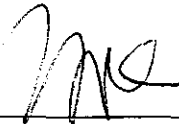
IT IS HEREBY STIPULATED AND AGREED, by and between
counsel for parties in the above-captioned action, pursuant to the
Equal Access to Justice Act, 28 U.S.C. § 2412, that Plaintiffs are
awarded \$8,474.00 (Eight Thousand Four Hundred Seventy-Four

Przhebel'skaya v. Ashcroft, No. 03-303
Stipulation Regarding Attorneys' Fees

COPY
Page - 2 -

Dollars and Zero Cents) in attorneys' fees, in full satisfaction of any claim for such fees.

Dated: New York, New York
January 16, 2005

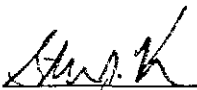


HARRY A. DEMELL, ESQ.
Attorney for Plaintiffs
225 Broadway, Suite 1605
New York, New York 10007
(212) 732-2767

Dated: Brooklyn, New York
January 28, 2005

ROSLYNN R. MAUSKOPF
United States Attorney
Eastern District of New York
Attorney for Defendants
One Pierrepont Plaza, 14th Floor
Brooklyn, New York 11201

By:



STEVEN KIM (SK6445)
Assistant U.S. Attorney
(718) 254-7036

SO ORDERED:

HONORABLE NINA GERSHON
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PRZHEBELSKAYA, Marianna)
A96 423 488)
PRZHEBELSKAYA, Vladimir)
A96 423 490)
PRZHEBELSKAYA, Yevgenia)
A96 423 489)

Plaintiffs)

Vs.)

UNITED STATES BUREAU)
OF CITIZENSHIP AND)
IMMIGRATION SERVICES)
JOHN ASHCROFT, Attorney)
General of the United States;)
Edward McElroy, as District)
Director of the New York)
District of the Bureau of)
Citizenship and Naturalization)
Services EDUARDO AGUIRRE, JR)
Commissioner of the Bureau of)
Bureau of Citizenship and Immigration)
Services;)

03 CV 3303 (NG)

APPLICATION FOR
ATTORNEY'S FEES

Harry A. DeMell
Attorney at Law
225 Broadway, Suite—1605
New York, NY 10007
(212) 732-2767

AFFIDAVIT OF HARRY A. DEMELL

I, Harry A. DeMell, do swear that the following is true to the best of my knowledge:

1. I have for the entire course of the above-captioned case served as legal counsel for the above named plaintiffs.
2. I received my legal training at New York Law School (JD 1976). I am a member of New York State Bar in good standing.
3. Since graduating from law school, I have had extensive experience in the field of visa, immigration and nationality law.
4. The above named plaintiffs, by its attorneys, Harry A. DeMell moves this Court to award its attorneys' fees and in support of said motion states the following:
5. Relief may be granted by this Court pursuant to Section 204(a) of the Equal Access to Justice Act, 28 U.S.C. 2412
6. On July 2003, Marianna Przhelskaya filed for an order to show cause in the nature for Mandamus in order to compel the Immigration & Naturalization Service now the Bureau of Citizenship & Immigration Services to complete the adjudication over an application for immigrant visas. On September 24, 2003 this court ordered the defendants to adjudicate plaintiffs applications immediately and, in any event, no later than September 30, 2003. One plaintiff was issued legal permanent residence and the others two were not, with the explanation that no visas were available. Had the courts order been followed properly, all three visas would have been timely issued.
7. The second application for a motion for contempt and to compel was filed on September 30, 2004. That application was granted in part by this court. The part to compel was granted and the defendants issued a legal permanent residence pursuant to that order.
8. The plaintiffs were successful.
9. The plaintiffs have incurred attorney's fees or liabilities in the sum of \$24,672.
10. The foregoing Itemized Statement of Time Expended is an accurate reproduction of the detailed billing report of the law firm Harry A. DeMell regarding 1) the time spent by and hourly rate of attorneys contributing to the

representation of Plaintiff, Marianna Przhebelskaya, in the above captioned matter, and 2) the cost of providing ancillary services in connection with such representation.

BILLING RATE: \$300.00 per hour
\$150.00 per hour (Law Clerk)

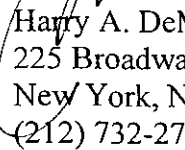
Date:	Para	Lawyer	Fees
5/3/			
4/4/03 Prepare OSC, Memo etc		4 ½	
6/23/03	4		
6/24/03	5		
6/26/04	3 ½		
7/2/03 Memorandum of law	6	1 ½	
7/8/03 File OSC with EDNY		2	\$150
7/10/03 review of law and docs		1	
7/11/03 letter to Defs	1 ½	½	
7/18/03 Meet DAO Atkinson re adjustment		1 ½	
8/13/04 DAO Matos re adjustment		3	
8/20/03 letter from US Att Kim		1	
8/21/03 letter to DAO Matos		½	
8/22/03 Visit to DAO Matos		2	
9/3/03 letter to J Gershon	½	½	
9/5/03 Took clients to INS for DV inquiry day		3	
9/18/03 client conf		½	
9/23/03	5		
9/24/03	1 ½		
9/24/03 Conf before J. Gershon		4	
9/25/03 letter to DAO Gillis		½	
9/26/03 copies to kim	1/4		
9/30/04 Interview		4	
10/17/03 status letter	½		
10/22/03 Preparation of I-130s for Husband and Daughter	3	1	\$300.
10/31/03 Conf with clients		1	
11/10/03 Conf with Para to prepare motion	2	2	
12/18/03	5		
12/23/03	5		
1/5/04	5		
1/6/04	2 ½		
1/8/04	5		
1/12/04	2		
1/13/04	6		
1/20/04	3		

2/4/04 file motion to compel	1	1/2	
2/6/04 file motion	5	2	
3/8/04 read and eval gov't reply to motion		1 1/2	
3/10/04 Court Conf on motion	1 1/2	3	
4/12/04 Review def's reply work on reply		1 1/2	
5/4/04 work on reply memo		2	
Hours	76.75	42.5	
Rate X	\$150.per	\$300.per	
Total	\$11,512.	\$12,750.	\$410.
SUM TOTAL	\$24,672		

WHEREFORE, Plaintiffs prays that this court:

1. Award to the plaintiffs its attorneys' fees and expenses in the amount of \$24,672.
2. Award to the plaintiffs such other relief as may be deemed proper.

Respectfully submitted,


Harry A. DeMell
225 Broadway, Suite—1605
New York, NY 10007
(212) 732-2767

December 8, 2004